

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

JOHN ALLEN,

Plaintiff,

v.

Case No. 14-12308

Honorable Denise Page Hood

COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

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**ORDER ADOPTING MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION**

This matter is before the Court on Magistrate Judge R. Steven Whalen's Report and Recommendation on Plaintiff John Fitzgerald Allen's Motion for Summary Judgment [**Docket No. 10, filed December 8, 2014**] and Defendant Commissioner's Motion for Summary Judgment [**Docket No. 13, filed February 2, 2015**]. Neither Plaintiff nor Defendant filed an objection to the Report and Recommendation. For the reasons stated below, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation in its entirety [**Docket No. 14, filed May 14, 2015**]. Defendant Commissioner's Motion for Summary Judgment [**Docket No. 13, filed February 2, 2015**] is **GRANTED**.

Judicial review of the Commissioner's decision is limited in scope to determining whether the Commissioner employed the proper legal criteria in reaching his conclusion. *Garner v. Heckler*, 745 F.2d 383 (6th Cir. 1984)). The credibility findings of an administrative law judge ("ALJ") must not be discarded lightly and should be accorded great deference. *Hardaway v. Secretary of Health and Human Services*, 823 F.2d 922, 928 (6th Cir. 1987). A district court's review of an ALJ's decision is not a *de novo* review. The district court may not resolve conflicts in the evidence nor decide questions of credibility. *Garner*, 745 F.2d at 397. The decision of the Commissioner must be upheld if supported by substantial evidence, even if the record might support a contrary decision or if the district court arrives at a different conclusion. *Smith v. Secretary of HHS*, 893 F.2d 106, 108 (6th Cir. 1984); *Mullen v. Bowen*, 800 F.2d 535, 545 (6th Cir. 1986).

"[O]nly those specific objections to the magistrate's report made to the district court will be preserved for appellate review; making some objections but failing to raise others will not preserve all the objections a party may have." *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). "An 'objection' that does nothing more than state a disagreement with a magistrate's suggested resolution, or simply summarizes what has been presented before, is" insufficient. *Aldrich v. Bock*, 327 F. Supp. 2d 743, 747 (E.D. Mich. 2004). A

party's failure to file any objections waives his or her right to further appeal, *see Smith*, 829 F.2d at 1373, and relieves the Court from its duty to review the matter independently. *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusion for the proper reasons. The Court agrees with the Magistrate Judge that the ALJ's finding that Plaintiff did not meet or equal a listed impairment is supported by substantial evidence and the ALJ's rejection of Dr. Subburaman Sivakumar's "disability opinions" is also well articulated. The Magistrate Judge reviewed the ALJ's findings and the record thoroughly in reaching his conclusion. The Court also agrees with the Magistrate Judge that ALJ's finding that Plaintiff's claims were not wholly credible is well supported. The Magistrate Judge set forth specific examples of how the ALJ's findings were supported by the record.

The Court notes that the Magistrate Judge also notified the parties of their right to "seek review of this Report and Recommendation" and reminded them of the timeline in which to do so. As previously stated, neither Plaintiff nor Defendant have filed any objections to the Magistrate Judge's May 14, 2015, Report and Recommendation. The Court accepts the Magistrate Judge's Report and Recommendation as this Court's findings of fact and conclusions of law.

Accordingly,

**IT IS ORDERED** that the Report and Recommendation of Magistrate Judge R. Steven Whalen [**Docket No. 14, filed May 14, 2015**] is **ACCEPTED** and **ADOPTED** as this Court's findings and conclusions of law.

**IT IS FURTHER ORDERED** that Plaintiff's Motion for Summary Judgment [**Docket No. 10, filed December 8, 2014**] is **DENIED**.

**IT IS FURTHER ORDERED** that Defendant Commissioner's Motion for Summary Judgment [**Docket No. 13, filed February 2, 2015**] is **GRANTED**.

**IT IS FURTHER ORDERED** that the Commissioner's decision is **AFFIRMED**.

**IT IS FURTHER ORDERED** that the case is **DISMISSED** with prejudice.

s/Denise Page Hood  
Denise Page Hood  
United States District Judge

Dated: September 28, 2015

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 28, 2015, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry  
Case Manager